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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,453	01/09/2004	Bernard Paul Joseph Thiers	THIE3009/JEK	8707
23364	7590	06/08/2006	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/753,453		THIERS ET AL.	
	Examiner		Art Unit	
	Chapman E. Jeanette		3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/30/05, 1/9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Meckstroth (3641730) in view of Haffner et al (6863768) and Hendrich (4479333).

Meckstroth discloses a set of floor panels comprising at least two types of floor panels comprising:

- A first type of floor panels of a first common length that is different from a second common length defined by a second type of floor panels; see column 2, lines 50-56
- The floor panels are defined by their lengths
- Each panel is rectangular; column 2, lines 15-20
- Each panel includes a floor panel having a layered structure 14/16/18
- Mechanical coupling 20/30 of parts defined along each of the four edges, as many connecting side edges included in the rectangular panels, of the panels.
- The coupling parts located on opposed side edges 25 of each panels 10 are arranged for locking in both vertical and horizontal directions; see figure 1
- The outer skin 14 is constructed of plywood not of decorative paper layer soaked in resin;

- The panels consist of 2,4, 6, etc..... feet sets; Thus totaling, 2 through the nth sets;
- for example the six feet set panels are all of equal length and width but the two, four and 6 feet sets each have different lengths and widths
- There are 3 different lengths thus three types of floor panels
- The first length is 6 feet, the second length is 4 feet and the third length is two feet
- Given the above, the second and the third length have a combined length generally equal to the first, the first length defines the longest length
- The combination or ratio of lengths is limitless and thus the quantity of panels to the first type may outnumber the floor panels of the other types
- The specific dimensions of the width in comparison to the length has been considered a matter of design choice; one of ordinary skill in the art would have appreciated making the panels of any dimensions commensurate with the use, purpose and function of the panels.
- The first length set of 6 feet has a first width, the second set of 4 feet has a second width, the third set has a third width

Haffner et al discloses a panel with a layered structure including decorative paper soaked in resin. See columns 5 and 6. The printed pattern decorative layer portrays a wood or parquetry pattern or a single continuous wood pattern over at least one entire surface of the respective floor panel. See column 12. Hendrich (4479333) discloses building structures packaged for transportation to a building site. It is highly likely that

the packaging of the panels would at least fit the largest length while not providing extra room within the package for shifting of the panels therein. One of ordinary skill in the art would have appreciated packaging the materials in any convenient, efficient and low cost manner. In view of the above it would have been obvious to make the panels of any desired designs conveniently packaged as shown by the secondary references.

DOUBLE PATENTING REJECTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 24-33 are provisionally rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1-9 of copending Application No.

11/249591. Although the conflicting claims are not identical, they are not patentably

distinct from each other because the '591 application does not include the packaging

but one of ordinary skill in the art would have appreciated the packaging as most all

products include the same to provide a convenient means for shipping the same to the construction site

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEANETTE CHAPMAN
PRIMARY PATENT EXAMINER
ART UNIT 3635

jec